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CENTRAL FAX CENTER

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Application No. : 10/797,981
Inventor(s) : Kuhlman, et al.
Filed : 3/11/2004
Art Unit : 1609
Examiner : Mahyera, T.J.
Docket No. : 9576
Confirmation No. : 4999
Customer No. : 27752

Title : PERSONAL CLEANSING COMPOSITIONS

DECLARATION OF TIMOTHY COFFINDAFFER UNDER 37 C.F.R. §1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

All statements made herein are true to the best of my knowledge, or, if made upon information and belief, are believed to be true.

I received a B.S. Degree in Chemistry from Grove City College in 1981, and a Ph.D. in Chemistry from Purdue University in 1985. I have been employed by The Procter & Gamble Company of Cincinnati, Ohio since 1985, assignee of the present application, where I am currently employed as a Research Fellow. I have worked with personal cleansing compositions in the laboratory for about 18 years.

I am an inventor on the above-captioned patent application. I have read U.S. Patent Application No. 2006/0165642 (hereinafter referred to as "Ellis"), U.S. Patent No. 6,589,517 (hereinafter referred to as "McKelvey") and U.S. Patent No. 6,635,702 (hereinafter referred to as "Schmucker-Castner") cited by the Examiner.

It is my intent in this current declaration is to demonstrate that one skilled in the art would not combine Ellis, McKelvey and Schmucker-Castner and that the combination of the teachings of Ellis, McKelvey and Schmucker-Castner would not result in the compositions of the present invention. It is also my intent to show that none of the cited

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references teach or suggest the benefits of the polymeric system used in the present invention.

The present invention is a lathering cleansing composition comprising an alkyl ethoxylated polymer, at least one lathering surfactant, an acrylate cross linked copolymer, and a particulate material. The compositions of the present invention provide good lathering and are readily rinse off. The particulate materials enhance cleansing and exfoliation, as well as, provide conditioning benefits without damage or irritation.

Below the details of the disclosures of Ellis, McKelvey and Schmucker-Castner are summarized.

Ellis discloses the use of suspension polymers, however, Ellis does not exemplify the use of a suspension polymer, nor does Ellis claim suspension polymers. In addition, Ellis does not disclose any information about alkyl ethoxylated polymers.

Schmucker-Castner discloses and teaches the use of a cross-polymer only. Schmucker-Castner does not disclose or teach the use of alkyl ethoxylated polymer.

Schmucker-Castner teaches the use of cross-polymers as a suspension aid and a rheology modifier for stabilization of insoluble particles (e.g., beads, emulsified oils/silicones) in an aqueous surfactant containing composition.

The present invention teaches that the use of a cross-linked polymer for suspension and rheology can yield a composition that lathers poorly and rinses poorly. As stated in the specification of the present invention, on page 2 lines 3-8:

Notwithstanding the benefits prescribed by Noveon™, use of such suspending agents in cleansing compositions can also impact the user's perception of rinsing the cleanser from the skin and hair. Through exhaustive consumer study, it is noted that when using these suspending polymers in cleanser compositions, consumers are left with the perception that the composition's lather poorly and, or do not rinse easily. In fact, it's not unusual for consumers to be left with the impression that these compositions feel slimy and, or do not rinse easily off after use.

Thus, it is concluded that using the cross-linked polymer alone, as taught in Schmucker-Castner, to hit the target viscosity will result in either a stringy or gelatinous product with poor aesthetics, lather and rinse.

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McKelvey discloses and teaches the use of ethoxylated polymers. McKelvey's disclosure is also limited to cationic surfactant/fatty alcohol systems. As disclosed in Column 2 line 56, "Associative polymers can thicken composition as a result of intermolecular association between the various water-insoluble hydrophobic components which form part of, or are bonded to (directly or indirectly) a water-soluble polymer backbone. Here McKelvey acknowledges the cationic surfactant and long chain alcohol form an insoluble component.

Ethoxylated polymers, as in McKelvey, used alone to achieve the target viscosity in the compositions of the present invention will result in an unstable product (e.g. particulate conditioning agents or exfoliating agents dropping out of solution or floating to the top of the product).

Further, McKelvey does not teach the use of water soluble surfactants. It is also noted that the compositions of McKelvey are non-lathering composition which is opposite of the claimed invention.

Schmucker-Castner teaches the use of cross-polymers alone for suspension and rheology to achieve target viscosity thus, one skilled in the art would not combine the teachings of Schmucker-Castner with that of Ellis or McKelvey. Further, these combinations would not result in the compositions of the present invention.

The present application teaches and discloses the combination of an ethoxylated polymer, cross-linked polymer, particulate material and a lathering surfactant. In addition, it is worth noting that by using a combination of ethoxylated polymers for thickening and cross-linked polymers for suspension in the present invention, one can obtain a product that is stable as well as lathers and rinses well.

In conclusion, none of the cited references, Ellis, McKelvey and Schmucker-Castner, teach or suggest the advantages and benefits of the combination of an ethoxylated polymer, cross-linked polymer, particulate material and a lathering surfactant used in the present invention.

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Further Declarant sayeth not.

16 Nov 2007

TT 06/104

Date

18 U.S.C. §1001 Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or advice a material fact, or makes any false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

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